

REMARKS

Claims 1-22 are pending in the application. Claim 1 has been amended to more particularly point out and claim the invention. Support for this amendment is found at least in the original specification at page 15, lines 13-17 and in the Figs. 13a and 16a of the drawings. Claims 1, 2, 14, and 22 have been amended to correct various formal matters including use of conventional U.S. claim format, antecedent basis issues, and use of conventional American English spelling. No new matter has been added by the foregoing amendments.

Status Identifiers

The Examiner states that claim identifiers associated with claims 13-22 were shown incorrectly in the Amendment dated May 24, 2005, filed in response to the Office Action dated February 15, 2005. In particular, the Examiner states that claims 13-22 should be identified as "withdrawn". The Examiner further points out that claim 23 should be identified as "cancelled". Claim 23 has been identified as "cancelled". In identifying claims 13-22 as "withdrawn", the Examiner appears to rely upon a statement in Applicants' Amendment and Response to Election Requirement dated November 22, 2004 filed in response to the Office Action dated October 20, 2004. In this Amendment and Response, Applicants identified claims 1-12 as reading on the elected Group associated with Figs. 12-20. Applicants were correct to identify claims 1-12 as reading on the elected Group, but failed to identify claims 13-22, in their then amended form, as also reading on the elected Group. Applicants respectfully submit that claims 1-22 read on the elected Group. The Applicants' judgment that claims 1-22 read on the elected Group and the Applicants' intent that claims 13-22 be examined along with claims 1-12 is evidenced by the claim identifiers shown both in the Amendment and Response of October 20, as well as in the Amendment of May 24. Applicants attorney representative apologies for any confusion in failing to state clearly in the Amendment and Response that claims 1-22 read on the elected Group. Accordingly, Applicants respectfully request reconsideration of the Examiner's comments regarding the claim identifiers associated with claims 13-22.

Objection to the Specification

The Examiner objected to the abstract for use of "means" phraseology. The abstract has been amended to eliminate the "means" phraseology. In view of the foregoing amendments,

Applicants respectfully submit that the Examiner's objection regarding the abstract has been addressed, and Applicants respectfully request that the Examiner's objection to the abstract be withdrawn.

Claim Rejection – 35 U.S.C. § 102 – claims 1, 3-10, and 12

The Examiner has rejected claims 1, 3-10, and 12 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,499,255 (Givoni). The Examiner asserts that Givoni discloses the features cited in claims 1, 3-10, and 12. The rejections of claims 1, 3-10, and 12 are respectfully traversed.

Referring in particular to Figs. 1 and 15, Givoni discloses a panel assembly including a plurality of tubular cells 4. A light blocking member 6 is rotatively disposed in at least some of the cells 4. The light blocking members 6 are rotatively supported at their ends between lower and upper portions 72 and 72', respectively, of a split wall. The split wall is captured between a lower member 12 and an upper member 12'. The split wall lower and upper portions 72, 72' and the lower and upper members 12, 12' each support a plurality of light blocking members 6.

Claim 1, as amended, recites, *inter alia*,

...

a continuous, unitary translating member;

a plurality of modular elongate member units, each

modular elongate member unit adapted to mount a single shutter blade and including:

 a support for a compact boss adapted to be engaged to the shutter blade, whereby rotation of the compact boss causes rotation of the shutter blade;

 wherein each elongate member unit is stackable and engageable to identical elongate member units to form an assembled elongate member; and

 wherein the assembled elongate member is adapted to facilitate reciprocal travel of the translating member along or within the assembled elongate member and the support is adapted to support the compact boss for co-action with the translating member to translate such reciprocal motion of the translating member into rotational motion in the compact boss so as to rotate the shutter blade. (emphasis added)

Claim 1 has been amended to clarify that the assembled elongate member is adapted to facilitate reciprocal travel of a continuous, unitary translating member along or within the assembled elongate member. Support for the amendment is found in the specification at page 15, lines 13-17, and in Figs. 13a and 16a of the drawings.

Givoni fails to disclose a shutter assembly having a plurality of modular elongate member units, each supporting a single shutter blade, wherein the modular elongate units are stackable and engagable with one another to form an assembled elongate member. The split wall lower and upper portions 72, 72' and the lower member 12 and the upper member 12' of Givoni each support **a plurality** of light locking members 6.

As Givoni fails to disclose each and every element of claim 1, as amended, Applicants respectfully submit that claim 1, along with claims 3-10 and 12 depending from claim 1, are not anticipated by Givoni, and request that the rejection of these claims under 35 U.S.C. § 102(b) be withdrawn.

Claim Rejection – 35 U.S.C. § 102 – claims 1-3 and 5-12

The Examiner has rejected claims 1-3 and 5-12 under 35 U.S.C. § 102(b) as being anticipated by EP Patent No. 0 119 369 (Balsamo). The Examiner asserts that Balsamo discloses the features cited in claims 1-3 and 5-12. The rejections of claims 1-3 and 5-12 are respectfully traversed.

Referring in particular to Fig. 14, Balsamo discloses a rack device 11 including a two-piece housing assembly 11. The housing 11 contains a rack bar 13 operatively engaged with a sector gear or cog-wheel 12. The rack bar 13 is provided with a head-shaped appendix 13a at a first end and a slot 13b at a second end. The rack devices 11 are modular, and multiple rack devices 11 may be joined together, with the rack bar 13 of each rack device 11 mating with the rack bar 13 of the adjoining rack device 11.

As discussed above relative to the rejections of claims 1, 3-10, and 12, Claim 1, as amended, recites a **continuous, unitary** translating member along or within the assembled

elongate member. Balsamo fails to disclose a shutter assembly having a continuous, unitary translating member extending through a plurality of adjoining modular rack devices.

As Balsamo fails to disclose each and every element of claim 1, as amended, Applicants respectfully submit that claim 1, along with claims 2-3 and 5-12 depending from claim 1, are not anticipated by Balsamo, and request that the rejection of these claims under 35 U.S.C. § 102(b) be withdrawn.

Claim Rejection – 35 U.S.C. § 103 – claims 2 and 11

The Examiner has rejected claims 2 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Givoni in view of Balsamo. The Examiner relies upon Balsamo for disclosure of a elongate member unit having a pair of separately formed and joinable half components. The Examiner asserts that it would have been obvious to one of ordinary skill in the art to combine the separable half components of Balsamo with the shutter assembly of Givoni since separable half components allow the shutter assembly to be mounted together to form a working shutter as well as to be adjustable along its length. Applicants respectfully traverse these rejections.

When making a rejection under 35 U.S.C. § 103, the Examiner has the burden of establishing a *prima facie* case of obviousness. The Examiner satisfies this burden only by showing (1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, (2) a reasonable expectation of success and (3) the prior art references much teach or suggest all of the claim limitations (see MPEP 706.02(j)). The teaching or suggestion to make the claim combination and reasonable expectation of success must be found in the prior art and not from the applicant's disclosure (see MPEP 706.02(j)). Further, the mere fact that the prior art could be modified in the manner proposed by the Examiner, does not make the modification obvious unless the prior art suggests the desirability of the modification. *Ex parte Dussaud*, 7 U.S.P.Q. 2d 181, 1820 (PTO Bd. App. & Int. 1988).

Balsamo and Givoni are not properly combinable under 35 U.S.C. § 103(a). Balsamo and Givoni disclose two distinct, yet equally functional, shutter devices. The split housing of the rack device 11 of Balsamo is not adapted for use with the shutter assembly of Givoni. Given the

large size of the shutter assembly of Givoni, the number of components housed therein, and the consequent complexity of the assembly process, the simple two-piece housing disclosed by Balsamo would not be suitable for incorporation into the device of Givoni. Furthermore, the Examiner has failed to identify any advantage to be realized by combining the two piece housing of Balsamom with the shutter assembly of Givoni. Contrary to the Examiner's assertion, the artisan would fail to recognize any motivation to combine the two piece housing of Balsamo for the purpose of allowing the shutter assembly to be mounted together, as the device of Givoni already achieves this function. Furthermore, the artisan would not recognize any motivation to incorporate the two piece housing of Balsamo into the shutter assembly of Givoni to allow the shutter assembly to be adjustable along its length, as incorporating a two-piece housing into the device of Givoni would not provide this functionality.

The Examiner has not relied upon a combination of Balsamo with Givoni to disclose the features of claim 1. Claims 2 and 11 are allowable at least based upon their dependence from allowable claim 1. It is therefore respectfully submitted that a *prima facie* case for obviousness has not been established with respect to claims 2 and 11. Accordingly, it is respectfully requested that the rejection of claims 2 and 11 under 35 U.S.C. § 103(a) be withdrawn.

Claim Rejection – 35 U.S.C. § 103 – claim 4

The Examiner has rejected claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Balsamo in view of Givoni. The Examiner relies upon Givoni for disclosure of a motorized turning means having sensors. The Examiner asserts that it would have been obvious to one of ordinary skill in the art to combine the motorized turning means with sensors of Givoni with the invention of Balsamo to permit automatic opening and closing of the shutter assembly upon set and desired conditions. Applicants respectfully traverse this rejection.

As discussed above, Givoni and Balsamo are not properly combinable under 35 U.S.C. § 103(a). Moreover, the Examiner has not relied upon a combination of Givoni with Balsamo to disclose the features of claim 1. Claim 4 is allowable at least based upon its dependence from allowable claim 1. It is therefore respectfully submitted that a *prima facie* case for obviousness

has not been established with respect to claim 4. Accordingly, it is respectfully requested that the rejection of claim 4 under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

In view of the foregoing amendment and remarks, Applicant respectfully submits that the present application, including claims 1-22, is in condition for allowance, and such action is respectfully requested.

Respectfully submitted,

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